

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

8:19-CV-0010  
(GTS)

THOMAS CRITTEN,

Defendant.

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APPEARANCES:

OF COUNSEL:

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GLENN T. SUDDABY, Chief United States District Judge

**DECISION and ORDER**

Currently before the Court, in this criminal prosecution of Thomas Critten (“Defendant”) for one count of possession with intent to distribute a controlled substance, is Defendant’s motion to suppress evidence related to, and found as a result of, his apprehension during a traffic stop by St. Lawrence County Sheriff’s officers on December 20, 2018. (Dkt. No. 13.) For the reasons set forth below, Defendant’s motion is denied.

## **I. THE PARTIES' ARGUMENTS ON DEFENDANT'S MOTION**

### **A. Defendant's Memorandum of Law**

Generally, in his motion to suppress, Defendant asserts two arguments to support his contention that the Court should suppress (1) physical evidence found during the traffic stop, and (2) Defendant's subsequent statements. (Dkt. No. 13, Attach. 1, at 7-10 [Def.'s Mem. of Law].) First, Defendant argues that his Fourth Amendment rights were violated by the officers' unreasonable prolongation of the traffic stop of the taxi in which he was riding. (*Id.* at 7-9.) More specifically, Defendant argues that the officers prolonged the stop for longer than was necessary to "complete the mission" of issuing a ticket to the taxi driver for failure to use his turn signal (the offense for which the stop was initiated). (*Id.*)

Second, Defendant argues that his Fourth Amendment rights were violated when the officers conducted a search of his person without reasonable suspicion that he was armed and dangerous. (*Id.* at 9-10.) More specifically, Defendant argues that the police reports made by the officers do not offer any explanation for why those searches were conducted or otherwise suggest that a reasonable person would have suspected that Defendant was armed and dangerous. (*Id.*)

### **B. The Government's Opposition Memorandum of Law**

Generally, in its opposition memorandum of law, the Government asserts three arguments.<sup>1</sup> (Dkt. No. 18, at 9-16 [Govt.'s Opp'n Mem. of Law].) First, the Government argues that the traffic stop of the taxi was justified because (a) the parties agree that the driver failed to signal a turn and therefore there was probable cause based on the observed traffic infraction, and

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<sup>1</sup> The Court notes that the Government's opposition also argues that a hearing is not warranted; however, the Court has rejected that argument.

(b) officers had independent reasonable suspicion that Defendant was involved with drug trafficking based on observations and information that he had traveled by bus from New York City without luggage and that he gave the taxi driver a non-existent address on a street known for drug trafficking. (*Id.* at 9-10.)

Second, the Government argues that the encounter during the traffic stop was lawful because it was Defendant's own suspicious conduct that extended the stop. (*Id.* at 11-13.) More specifically, the Government argues that Defendant provided inconsistent information throughout the stop regarding where he had come from, where he was going, and why he was in Massena that gave rise to reasonable suspicion of criminal activity, which was then bolstered by the findings that resulted from the canine sniff search of the backseat of the taxi (i.e., the bus ticket under a different name than the one Defendant had given to the officers). (*Id.* at 12-13.) The Government notes that the encounter lasted a total of approximately 30 minutes, a duration that is not unreasonable. (*Id.* at 13.)

Third, the Government argues that the officers were authorized to search Defendant incident to his lawful arrest. (*Id.* at 13-15.) More specifically, the Government argues that the initial pat-frisk (which is not relevant to this motion because it produced no physical evidence) was warranted by Plaintiff's inconsistent answers to basic questions, furtive and shifty movements including constantly trying to put his hands in his pockets, and the fact that he was headed to an area known for drug trafficking. (*Id.* at 13-14.) The Government also argues that there was probable cause to arrest Defendant for false personation based on reasonable suspicion that he was concealing his identity (e.g., the fact that his name did not produce any records when run through the database, the fact that he did not have identification, and the discovery of a bus

ticket in the name of Jamal Clay for the bus on which Defendant had just arrived where Defendant had been sitting in the taxi), and that the search was conducted pursuant to this arrest. (*Id.* at 14-15.)

### **C. Defendant's Reply Memorandum of Law**

Generally, in his reply memorandum of law, Defendant makes two arguments. (Dkt. No. 19, at 2-8 [Def.'s Reply Mem. of Law].) First, Defendant again argues that the officers unlawfully prolonged the traffic stop. (*Id.* at 2-7.) More specifically, Defendant argues that (a) none of the police reports suggest that the reason the taxi was stopped was because of suspicions about him, but rather all indicate that it was stopped because of the turn signal violation, (b) Detective Shattuck's affidavit in opposition is of little value because he did not arrive at the scene of the traffic stop until approximately 13 minutes into the stop and therefore has no personal knowledge about what occurred during those initial 13 minutes, and (c) Deputy Jones' narrative about the stop states that Defendant had asked to go to 61 Parker Avenue, not 6A Parker Avenue, and 61 Parker Avenue is a valid address. (*Id.*)

Second, Defendant argues that the search was not incident to a lawful arrest because (a) the arrest was not lawful for the reasons he argued previously, and (b) it is undisputed that he provided his real name and date of birth and therefore he did not commit the offense of false personation for which he was arrested. (*Id.* at 8.)

## **II. EVIDENTIARY HEARING AND POST-HEARING BRIEFING**

### **A. The Hearing**

On September 10, 2019, the Court held an evidentiary hearing in Albany, New York. At that hearing, the Court received testimony from four witnesses: (1) Detective Arthur Shattuck;

(2) Adirondack Trailways bus operator Amy Sue Balcum; (3) St. Lawrence County Dispatcher Scott Niles; and (4) Deputy John Jones. Defendant did not testify. The Court granted Defendant's request to submit post-hearing briefing. (Dkt. No. 24.)

**B. Defendant's Post-Hearing Brief**

Generally, in his post-hearing brief, Defendant asserts three arguments. (Dkt. No. 29, at 2-6 [Def.'s Post-Hr'g Brief].) First, Defendant argues that the officers did not have reasonable suspicion of criminal activity at the time Deputy Jones conducted a traffic stop of the taxi. (*Id.* at 2-5.) More specifically, Defendant argues that Detective Shattuck's testimony at the hearing that he observed an African-American male with no luggage coming by bus from Syracuse to Massena who got into a taxi to go to an address on Parker Avenue is insufficient to establish reasonable suspicion because there was no testimony that Defendant engaged with anyone at the bus stop, that he looked nervous or otherwise acted in a manner that differed from the other passengers, or that law enforcement had previous knowledge of him. (*Id.* at 2-3.) Defendant also argues that Detective Shattuck's testimony and the other evidence establishes that the officers knew they did not have reasonable suspicion, based on (a) the officer's failure to mention this suspicion of drug activity in the police reports, in which they characterized it as a traffic stop based on a traffic infraction, (b) Detective Shattuck's testimony that he instructed Deputy Jones to look for probable cause (i.e., a traffic infraction) to stop the taxi or they would need to merely follow the taxi to its destination and conduct surveillance, and (c) Detective Shattuck's testimony that he was aware that this type of "bus detail" (following persons about whom he had received a tip of potentially suspicious behavior) had a low success rate of revealing actual criminal activity. (*Id.* at 4-5.)

Second, Defendant argues that the officers prolonged the traffic stop beyond the time reasonably required to issue a ticket to the taxi driver based on Deputy Jones' testimony. (*Id.* at 5.)

Third, and relatedly, Defendant argues that the officers did not develop reasonable suspicion within the time that was reasonably required to issue the traffic ticket to the taxi driver, arguing in particular that the fact that the database search conducted by dispatch did not return records for Defendant's name is not grounds for reasonable suspicion because the dispatcher testified that he searched the New York database, but Defendant has never lived in New York and therefore would not have had records in that database. (*Id.* at 5-6.)

### **C. The Government's Opposition to Defendant's Post-Hearing Brief**

Generally, in its post-hearing opposition, the Government asserts two arguments. (Dkt. No. 34, at 3-7 [Govt.'s Post-Hr'g. Opp'n].) First, the Government argues that the traffic stop was based on probable cause, or, in the alternative, on reasonable suspicion of criminal activity. (*Id.* at 3-5.) More specifically, the Government argues the following: (a) probable cause existed to stop the taxi based on the fact that Deputy Jones witnessed the taxi's driver failure to signal as required under New York law, a fact that Defendant does not dispute; and (b) reasonable suspicion existed to stop the taxi based on Detective Shattuck's knowledge and familiarity with drug trafficking behaviors, the fact that Plaintiff traveled on a bus from New York City to Massena without luggage, and the fact that the address he gave the taxi driver did not exist but was on a street known to be prone to drug trafficking. (*Id.*)

Second, the Government argues that reasonable suspicion also existed to extend the traffic stop beyond the time required to issue a traffic ticket. (*Id.* at 5-7.) More specifically, the

Government argues that officers developed further reasonable suspicion of criminal activity during the traffic stop through (a) Defendant's evasive and inconsistent answers about his reason for being in Massena, his destination, and the bus he had arrived on, and (b) the fact that the name provided by Defendant to Deputy Jones did not appear in the database search. (*Id.* at 5-6.) The Government argues that officers gained additional probable cause to continue to investigate (and eventually arrest) based on (a) the police canine's alert to the presence of narcotics where Defendant had been seated, (b) a torn bus ticket in the name of Jamal Clay in the taxi's seat for the bus that Defendant had arrived on, and (c) the taxi driver's assertion that Defendant had been the only passenger in his taxi that day up to that point. (*Id.* at 6-7.) The Government notes that the whole encounter lasted approximately 22 minutes, which it argues is a reasonably short time based on the underlying facts and circumstances. (*Id.*)

### **III. RELEVANT LEGAL STANDARD**

Because the parties have, in their respective submissions on Defendant's motions, demonstrated an adequate understanding of the legal standard governing Defendant's motion to suppress, the Court will not summarize those legal standards in this Decision and Order, which is intended primarily for the review of the parties. Rather, the Court will merely refer to certain points of law and cases where necessary in its analysis of Defendant's motion in Part III of this Decision and Order.

### **IV. ANALYSIS**

After careful consideration, the Court finds that Defendant's motion must be denied for the reasons stated in the Government's opposition memorandum of law and post-hearing opposition brief. (Dkt. No. 18, at 9-15 [Govt.'s Opp'n Mem. of Law]; Dkt. No. 34, at 3-7

[Govt.'s Post-Hr'g. Opp'n].) To those reasons, the Court adds the following analysis.

Defendant's primary argument in favor of suppression revolves around his theory that the investigation into his identity extended a routine traffic stop beyond the bounds of what was reasonably required to issue a ticket on the traffic infraction. This argument is unpersuasive based on the co-occurring reasonable suspicion of drug trafficking activity. The evidence before the Court on this motion indicates that, before the traffic infraction or stop ever occurred, Detective Shattuck was aware, based on information provided by both the bus operator<sup>2</sup> and the owner of the taxi company, that (a) Defendant had arrived on a bus from New York City alone and with no luggage, and (b) Defendant had requested that the taxi driver take him to an address that did not appear to exist,<sup>3</sup> on a street where Detective Shattuck knew narcotics were sold. (Dkt. No. 18, at 4 [Gov't.'s Opp'n Mem. of Law]; Dkt. No. 18, at 21-22 [Shattuck Aff].)

Detective Shattuck concluded that this conduct was suspicious for drug activity and passed this information to Deputy Jones, the officer who conducted the traffic stop. (*Id.*) Deputy Jones therefore had reason to question not only the driver based on the traffic infraction, but also to question Defendant about his identity based on the information provided by Detective Shattuck. *Cf. United States v. Hicks*, 18-CR-6041, 2018 WL 6595934, at \*7 (W.D.N.Y. Dec. 14, 2018)

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<sup>2</sup> Although Ms. Balcum testified at the hearing that she does not remember if she gave police a tip about an African-American male on the bus coming from New York City without luggage on the date in question, there is no evidence in the record to contradict Detective Shattuck's testimony and statements that the bus driver provided such information.

<sup>3</sup> Although Plaintiff argues that there is a dispute as to whether Defendant gave the taxi driver the address "6A Parker Avenue" (as most sources state) or "61 Parker Avenue" (as stated in Deputy Jones' police report), Deputy Jones testified at the hearing that "61 Parker Avenue" was a typographical error, and that his handwritten notes (which were taken closer in time to the incident) reflect that the true address was "6A Parker Avenue."



(collecting cases in which courts found that asking questions related to the identity of a passenger is permissible as an ordinary and routine inquiry incident to a traffic stop, even in the absence of reasonable suspicion). In response to Deputy Jones' inquiry into his identity, Defendant stated that he did not have identification with him, and he provided both the name Thomas Critten and his date of birth. However, the information provided to Detective Shattuck had indicated that Defendant had been traveling under the name Jamal Clay, and the subsequent search of the name Thomas Critten and the provided date of birth did not reveal any records. Even though the inability to find records on Defendant's name appears to have been the result of a database problem or failure to search the correct state's records<sup>4</sup> rather than an actual lack of records, such fact does not negate probable cause because Defendant's provision of a different name than the one made known in the tip (even though it was, in this case, his true name) reasonably raised suspicions that Defendant might be lying about his identity, particularly when no records were returned by the system. Thus, although there appears to have been an innocent explanation for the lack of records produced by the dispatcher's search, Deputy Jones and Detective Shattuck were not required to assume that innocent explanation in light of all the other circumstances. *See United States v. Bailey*, 743 F.3d 322, 333 (2d Cir. 2014) ("The law, however, does not demand that all possible innocent explanations be eliminated before conduct can be considered as part of the totality of circumstances supporting a reasonable basis to believe that criminal activity may

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<sup>4</sup> St. Lawrence County dispatcher Mr. Niles testified at the hearing that, although no records were recovered for the name provided by Defendant at the time of the traffic stop, it was a situation in which the database was taking too long to process the request and did not give results, not one in which there was "no hit" for that name (i.e., no records). Mr. Niles also testified that he searched the name only under the default state settings (i.e., New York) and did not search for records in other states (including New Jersey, where Defendant states he has a driver's license).

be afoot.”). This uncertainty about Defendant’s identity, combined with the information provided in the tip that raised suspicions of illegal drug activity, constituted reasonable suspicion to further investigate Defendant for criminal activity. The fact that Deputy Jones did not reveal to Defendant that the stop was premised not only on the traffic infraction, but also on the information officers had about Defendant’s activities, does not mean that Deputy Jones was limited to the normal strictures of a routine traffic stop.

The Court notes that Defendant’s citation to *United States v. Gomez*, 877 F.3d 76 (2d Cir. 2017), does not support Defendant’s argument that the traffic stop here was unconstitutionally prolonged. Although the Second Circuit’s findings in that case do, on their face, support Defendant’s general proposition, he ignores the fact that the Second Circuit recognized that the Government in that case raised the argument that reasonable suspicion that the defendant was trafficking heroin was an independent basis for the traffic stop for the first time on appeal, and that the Second Circuit therefore declined to address that newly-raised argument because it involved a mixed question of law and fact that could not be resolved on appeal given the limited factual development by the district court. *Gomez*, 877 F.3d at 92-93. *Gomez* therefore does not stand for the proposition that any actions that prolong a traffic stop are unconstitutional even where, as in this case, there is an asserted independent basis for reasonable suspicion of criminal activity apart from the traffic infraction; the *Gomez* court explicitly declined to consider that question. However, that question is fully before the Court in this case. Because the Government has provided evidence supporting that the officers conducted the traffic stop at least in part based on their suspicion that Defendant was involved in criminal drug activity, their efforts to discern Defendant’s identity at the beginning of the traffic stop and beyond the time they learned that the

taxi driver's license was valid did not constitute an unconstitutional extension of the traffic stop, but rather an investigation into criminal activity based on independent reasonable suspicion.

Defendant attempts to make much out of the fact that the police reports do not mention an alternate basis beyond the traffic infraction for investigating Defendant for suspected involvement in criminal drug activity. However, whether or not the relevant officers included that information in their reports, the evidence submitted with the motion papers and the testimony at the hearing from both Detective Shattuck and Deputy Jones substantiates that such alternative basis existed at the time the taxi in which Defendant was a passenger was stopped by Deputy Jones for the traffic infraction. Defendant has not offered any reasons that the credibility of those officers should be questioned. As a result, the Court finds no reason to question the reliability of the officers' statements that they were acting on tips from sources that led them to suspect that Defendant might be engaged in criminal drug activity.

Having concluded that there was reasonable suspicion to question Defendant about his identity and activities based on the independent reasonable suspicion that Defendant was engaged in criminal drug activity, the Court must now turn to whether the officers' subsequent actions in conducting a pat-frisk and a search of Defendant violated the Fourth Amendment. The Court concludes that they did not.

In the submitted evidence and the hearing testimony, Detective Shattuck stated that Defendant's subsequent conduct continued to make him suspicious that Defendant was involved in criminal activity: (1) when questioned by Detective Shattuck while still in the taxi, Defendant stated that he had come from Elmira to visit his fiancée, despite the fact Detective Shattuck knew the bus had originated in Syracuse; (2) Defendant continually tried to put his hands in his

pockets, so Detective Shattuck performed a pat-frisk to check for weapons; (3) after exiting the taxi, Defendant provided an explanation for being in Massena that was inconsistent with the one he had previously provided (i.e., from that he was going to visit his fiancée at the address given to the taxi driver, to that he was taking the taxi to a gas station where he could call his fiancée because he got on the wrong bus in Elmira and needed a ride to get back to Jersey City); and (4) Defendant stated that he did not know the number of the bus he had arrived on and that he did not have a bus ticket or luggage. Based on these factors and the previous suspicions about his name and destination address, Detective Shattuck ordered a canine sniff search with the consent of the taxi driver. This search led to the discovery of a ripped-up bus ticket stuffed in the seat where Defendant had been sitting that bore the name of Jamal Clay for the same bus Defendant had arrived on; the taxi driver confirmed that Defendant was the first passenger that had been in his taxi that day. At this point, Defendant was placed in handcuffs and searched over his clothes by Deputy Jones, who felt an object near Defendant's groin, which resulted in the discovery of three plastic bags containing narcotics.

As to the initial pat-frisk performed by Detective Shattuck, the Court finds that whether this pat-frisk was appropriate under the Fourth Amendment is of little practical concern because nothing of evidentiary value was discovered as a result of it.

Nor does Defendant appear to argue that the canine sniff and subsequent search of the back seat of the taxi violated his Fourth Amendment rights, and, even if he had, such arguments would have no merit for four reasons. First, an exterior sniff of a vehicle conducted by a well-trained narcotics-detection dog (even in the absence of other suspicion of criminal activity) is not a search under current legal standards and does not trigger the Fourth Amendment where, as here,

it did not unlawfully extend the traffic stop. *Illinois v. Caballes*, 543 U.S. 405, 409 (2005).

Second, the Court is convinced by the rationale of courts that have concluded that a defendant has no reasonable expectation of privacy in a taxi in which he or she is a passenger to the extent that the search is of the taxi compartment itself and not any personal bags or closed containers within the taxi compartment. *United States v. Trapp*, 13-CV-0062, 2014 WL 1117012, at \*7 (D. Vt. Mar. 20, 2014); *United States v. Bulluck*, 09-CV-0652, 2010 WL 1948591, at \*19-21 (S.D.N.Y. May 13, 2010), *remanding on other grounds*, 556 F.App'x 18 (2d Cir. 2014) (noting that the Court could not determine whether defendant's counsel's failure to argue that he had a reasonable expectation of privacy in plastic bags located in a taxi prejudiced him because the district court, in finding that defendant lacked a reasonable expectation of privacy in the rear seat of the taxi, did not make factual findings specific to whether there was probable cause to justify the search of the plastic bags). Third, the taxi driver, as the person who controlled the vehicle, had the authority to consent to a police search of any part of the taxi, and granted such consent to search without any evidence of coercion. *See Schneckloth v. Bustamonte*, 412 U.S. 218, 219, 248 (1973) (finding that consent is a valid exception to the warrant requirement where the Government shows that the consent was voluntarily given and not the result of duress or coercion); *Bulluck*, 2010 WL 1948591, at \*21 (noting that it is well settled law that the driver of a vehicle generally has the authority to consent to a full search of a vehicle because they have immediate possession and control over it) (collecting cases). Fourth, even had consent been absent and Defendant had a reasonable expectation of privacy, the totality of the information obtained by the officers up to that point (including Defendant's conflicting statements about his travel logistics, his lack of luggage, the uncertainty about his identity, Detective Shattuck's

knowledge that the area to which Defendant was believed to be going included known drug houses, and the indication from the police canine that narcotics were present in the taxi) provided probable cause to search the rear seat of the taxi. *See United States v. Gaskin*, 364 F.3d 438, 456 (2d Cir. 2004) (“Under the automobile exception to the Fourth Amendment warrant requirement, police may conduct a warrantless search of a readily mobile motor vehicle if probable cause exists to believe the vehicle contains contraband or other evidence of a crime.”) (internal quotations omitted). As a result, the Court finds that the search of the taxi itself did not violate the Fourth Amendment.

Defendant lastly argues that the search of his person conducted by Deputy Jones following the discovery of the torn bus ticket in the rear seat of the taxi violated his Fourth Amendment rights because there are no “facts suggesting that a reasonable person would have been concerned that [Defendant] was armed and dangerous,” and because there was no valid cause to arrest him given that it is undisputed that he provided officers with his true name and date of birth and thus did not commit the offense of false personation. (Dkt. No. 13, Attach. 1, at 9-10 [Def.’s Mem. of Law]; Dkt. No. 19, at 8 [Def.’s Reply Mem. of Law].) The Court also finds these arguments unpersuasive.

The evidence and testimony establishes that this search (which was initially to check for weapons) was performed incident to Deputy Jones and Detective Shattuck taking Defendant into custody as they were preparing to transport him to the Massena police station to determine his identity. (Dkt. No. 13, Attach. 2, at 7, 13, 16.) Detective Shattuck clarified that Defendant was placed under arrest at that time for providing a false name to authorities and could not be released until officers could verify his identity, and that he was searched incident to this arrest before transportation. (Dkt. No. 18, at ¶¶ 11-12 [Shattuck Aff.].) Defendant has offered no evidence

other than his uncorroborated affidavit to indicate that the search happened before he was placed in custody, which, as will be discussed in more detail below, the Court may disregard as non-credible.

It is well established that officers can perform a warrantless search of a defendant incident to a lawful arrest. *See Arizona v. Gant*, 556 U.S. 332, 338 (2009) (“Among the exceptions to the warrant requirement is a search incident to a lawful arrest.”). Defendant does not appear to challenge that he was arrested, but rather argues that the arrest for false personation was not valid because he provided his true name and date of birth. However, officers do not need to establish guilt to effectuate an arrest; they need only have probable cause to believe that a criminal offense has been committed. *Devenpeck v. Alford*, 543 U.S. 146, 152 (2004). Because the existence of probable cause depends on the facts known to the arresting officer at the time of the arrest, the fact that Defendant provided his correct name and date of birth does not prevent a finding of probable cause because the evidence establishes that the involved officers had been unable to verify that the information provided by Defendant was, in fact, accurate at the time of arrest. *Davenpeck*, 543 U.S. at 153-54. The Court finds that, based on all of the circumstances already discussed (including the tip about an individual named Jamal Clay, the failure of the dispatcher’s search of the database to verify Defendant’s identity, the discovery of a bus ticket in the name of Jamal Clay for the bus on which Defendant had just arrived in Massena, and the taxi driver’s statement that Defendant was the only person to ride in his taxi that day up to that point), the officers had probable cause to reasonably believe that Defendant was lying about his identity. As a result, the arrest was valid and they were permitted to conduct a search of Defendant’s person incident to that arrest before he was transported to the police station.

Defendant has attempted to raise an issue of fact as to whether officers had probable cause to arrest him for false personation by asserting that he provided the officers with his social security number during the stop. In particular, in his affidavit, Defendant states that one of the later-arriving officers (presumably Detective Shattuck) asked him for his social security number, that he provided his social security number to that officer, and that the officer then called someone on the phone and provided his social security number to the person on the line; Defendant states that this occurred before he was removed from the taxi. (Dkt. No. 13, Attach. 3, at ¶¶ 17-27 [Def.'s Aff.].) However, the Court has received no evidence other than Defendant's affidavit to substantiate his claim that he provided his social security number to any of the involved officers at any point during the stop, much less before any of the searches occurred. Defendant chose not to testify at the hearing, and, because the Court has found no reason to doubt the testimony of either Deputy Jones or Detective Shattuck that makes no mention of attempting to verify Defendant's social security number, the Court may disregard his uncorroborated self-serving assertions in his affidavit as to this matter. *See United States v. Miller*, 382 F. Supp. 2d 350, 362-63 (N.D.N.Y. 2005) (Sharpe, J.) (noting that, absent testimony at a suppression hearing, a judge should give a defendant's affidavit "such weight as his judgment and experience counsel," and that the determination of how much weight to give such an affidavit "will be influenced by whether the affidavit is contradicted by more cogent evidence, especially that withstands the scrutiny of cross-examination"). The Court notes in particular that Defendant's counsel did not question either Detective Shattuck (on cross-examination) or Deputy Jones (on direct examination) regarding the facts alleged about Defendant providing officers with his social security number before the searches took place. The Court finds that there is simply no



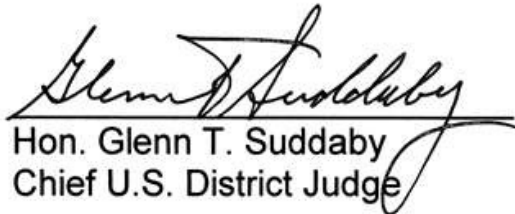
evidence to support Defendant's assertion, and, in fact, neither Deputy Jones nor Detective Shattuck made any mention of asking Defendant for his social security number (much less giving that number to someone over the phone) despite giving detailed testimony about the sequence of events before and during the stop of the taxi. As a result, the Court finds no basis for crediting Defendant's implication that officers did not have probable cause to arrest him for false personation based on a theory that provision of his social security number should have verified his identity before any of the searches occurred.

For all of the above reasons, the Court finds that Defendant's motion to suppress evidence related to the relevant traffic stop and searches must be, and is, denied.

**ACCORDINGLY**, it is

**ORDERED** that Defendant's motion to suppress (Dkt. No. 9) is **DENIED**.

Dated: October 11, 2019  
Syracuse, New York



Hon. Glenn T. Suddaby  
Chief U.S. District Judge